



State of Alaska
Department of Public Safety
Division of Alaska Wildlife Troopers

Sean Parnell, Governor
Joseph A. Masters, Commissioner

November 29, 2011

Chairman Judkins
Alaska Board of Game
P.O. Box 115526
Juneau Ak, 99811-5526

Dear Chairman Judkins:

The following comments give a brief description of the positions that the Department of Public Safety, Division of Alaska Wildlife Troopers has on the proposals that are up for consideration at the January, 2012, Alaska Board of Game meetings in Anchorage.

In general, when the board considers seasons and or bag limit changes, the Alaska Wildlife Troopers request that every effort possible be made to align the season dates and bag limits with adjacent game management units and/or sub units. This is mainly due to enforceability of multiple seasons in multiple locations as well as consistency of the regulations for the public. When the board considers proposals having to do with allocation or biological concerns, AWT is generally neutral in position.

AWT recognizes that regulations are developed by the Alaska Boards of Fish and Game through the public process to support management plans. Further, all management plans rely upon public compliance with regulations to achieve success. Enforcement is a crucial element needed to ensure long-term compliance with regulations by the public. The Alaska Wildlife Troopers request the board recognize that the division has limited resources and man power and any new regulation scheme or area restrictions may place an additional burden on AWT.

Comments on specific proposals AWT favors or opposes are included in this letter.

Thank you for your time.

Bernard Chastain

Lieutenant, Alaska Wildlife Troopers
Anchorage Headquarters

Proposal Analysis-

Proposal 46

In general, AWT has **no recommendation** on this proposal. The justification for allowing the sale of these items is that Alaska Department of Fish and Game feels that the sale of big game trophies would not create a conservation concern through the harvest of specific animals. AWT feels that the sale of trophies and animal parts has been and currently is an enforcement concern. The current regulations are sufficiently complex. Items taken under one system or hunting regime are allowed to be sold while items taken under a different hunting regime are not. If the board decides to allow sale of trophies, AWT asks that the sale of all trophies be allowed.

Proposal 49

This is an AWT generated proposal and we recommend that the board **amend and adopt**. Amended language is provided in this document to give the public as much chance as possible to prepare their testimony for the January board meeting. Amended language and documentation will be submitted to the board by RC at the January meeting.

In March 2011, AWT brought this proposal before the board as proposal 220. The board deferred this proposal until the January 2012 statewide meeting. During the March 2011 meeting, the board also asked AWT to work with the Taxidermy industry to solicit additional input and come up with possible language that would work for both the industry and enforcement.

In May of 2011, AWT sent out priority mail letters to the 106 currently licensed taxidermists in the state. The letter outlined the proposed regulation change and listed the regulation proposed language. The letter asked that the taxidermist review the language and submit any comments back to AWT no later than August 15th, 2011. Alaska Wildlife Troopers received a total of nine comments back from taxidermists on this issue. Five comments were opposed to any regulation that required them to keep records that would be inspected. Four comments supported the requirement to keep a log of the animals in their shop or a variation of a state issued log sheet. One taxidermist who responded provided a log sheet that they currently keep and a tracking system that is very similar to AWT's proposal.

In August 2011, Fairbanks taxidermists scheduled a meeting to discuss this proposal, now proposal 49. Attending the meeting were approximately 10-12 taxidermists from the Fairbanks area, Senator Coghill, Representative Wilson, Commissioner of Public Safety Joe Masters and AWT representatives. The meeting served to air some of the concerns about this proposal. During the meeting, some industry members suggested that an alternative to keeping a state issued log sheet may be to provide AWT with the companies "business record". The suggestion stemmed from the desire of the taxidermist to not duplicate records within their business. AWT's impression after leaving the meeting was that some if not most of the industry members represented at the meeting could support the option of providing the business record instead of a separate state issued log sheet. After further discussion, AWT could also support this option and it is reflected in the amended language submitted to the board in this document.

The original proposal language asked the board to grant AWT authority to inspect the log sheet, state-issued sealing paperwork and animals within the business. Since the original proposal, AWT has refined the language and removed the request to inspect for animals within the business, but maintains the request to require the taxidermist to keep a record and have it available for inspection. AWT submits the following amended language to the board for consideration;

(a) A person licensed as a taxidermist in the state that performs any taxidermy on big game, small game or furbearers shall maintain an accurate and detailed record which specifies all big game, small game or furbearers acquired, possessed or stored for taxidermy purposes. Such record shall include at least the following:

- 1) The date, name and address of the person from whom each specimen was received.*
- 2) A description of each specimen or the description of the part received.*
- 3) The date, name and address of the person to whom each processed specimen is delivered.*

(b) Records required under (a) may be kept on a log provided by the department or on business records kept by the taxidermist.

(c) Upon receiving a specimen or part thereof, the information required in (a) shall be immediately recorded.

(d) The record required in (a) shall be retained for a period of five years.

(e) Department of Public Safety is authorized to conduct inspections for compliance with this section during normal business hours or between 9 a.m. to 5 p.m.

Under (a), the new language reflects that there is already a defined term for taxidermy contained within AS 16.05.940 (35). Therefore, there is no reason to further define this term. AWT is only requesting that the board grant inspection authority on records kept by the taxidermist on big game, small game and furbearers. Throughout the public comment period, AWT consistently heard that taxidermists may not be able to get the hunters hunting license number to add on the record. Examples were given that made it clear that hunters do not always drop off their own items to the taxidermist and adding the hunting license number of the person who shot the animal may not be easy. AWT has access to the hunting license number of the person if needed.

Under (b) AWT added the option of keeping this information on business records already maintained by the taxidermist. Many of the written and verbal comments received by AWT had to do with duplicity of record keeping. AWT listened to the comments and added this reasonable request. The remainder of the language remained the same.

Throughout the history of this proposal there have been many allegations as to the true purpose of this proposal. Further, there have been several concerns with the constitutionality surrounding AWT's request to inspect records at licensed taxidermy businesses. The Department of Public Safety and a Department of Law appointed attorney do not believe that there is any constitutional

issue with this proposal whatsoever. DPS will be providing documentation to the board in an RC which will reflect this belief. There is no hidden agenda with this proposal. If passed, this regulation will provide AWT with a tool to inspect records kept by a taxidermist which reflect the game they possess for taxidermy purposes. The ability to inspect these records will allow AWT to look for specific animals that AWT suspects have been taken illegally and document that they are located at the taxidermy shop so we can take additional investigative steps.

Proposal 55

AWT recommends the board **adopt** this proposal. By defining “crossbow” in regulation, it will clarify what a crossbow is and when it can be used. Alaska Wildlife Troopers support clear and understandable regulations.

Proposal 99

AWT has **no recommendation** on this proposal. This proposal asks the board to make it illegal for hunters to take game on the same day that they have been transported into the field by commercial transporters. If the board passed this regulation, it would need to consider the effects on vessel based and vehicle based transporters and how they would be allowed to operate. While on the surface, it may appear that it would make enforcement easier by eliminating vessels transiting through areas and taking animals while being transported, it would create enforcement concerns as well. If passed as written, AWT would be required to prove that the person was dropped off by the transporter and did not take that animal until the following day. While this is the standard for game day airborne with aircraft, it may still be difficult to prove.

Proposal 104

AWT has **no recommendation** on this proposal. This proposal asks the board to prohibit the use of deer or elk urine for hunting. AWT has concerns as to the enforceability of this regulation and feels that enforcing this regulation as written would be difficult due to several reasons. First, it would be difficult for AWT to detect that urine was either applied to plants or trees in the hunting area. Similarly, AWT Troopers would likely need to smell the clothing of the hunter to determine if the hunter had applied urine. Many times urine is applied to the soles of the boots. This may be problematic when trying to determine if urine was used in the field. Hunters often apply this at the vehicle or access point to the field. Second, if the regulation passes as written, AWT would have difficulty determining if the hunter had deer or elk urine in their possession. AWT cannot arbitrarily search backpacks, coat pockets or any other areas capable of concealing the urine. Finally, in the event that AWT felt that there was probable cause that the hunter was using deer or elk urine and the hunter denied the use, we would need to be able to articulate to a judge why we felt urine was used and apply for a search warrant to search the hunter’s belongings. There would be some anticipated problems with being able to establish the probable cause to make this viable.

Proposal 105

AWT has **no recommendation** on this proposal. However, enforcement of this regulation in general is difficult for AWT. Persons wishing to ignore this regulation and continue to hunt after wounding an animal will likely get away with this crime.

Proposal 111

AWT recommends **do not adopt** on this proposal. The current regulation specifies that only “sufficient portions of the external sex organs” need to be attached to determine conclusively the sex of the animal. This is enforceable for AWT.

Proposal 112

AWT recommends **do not adopt** on this proposal. This regulation is particularly important to AWT when the taking of an animal is restricted to one sex. The proposer suggests that AWT could retrieve a sample of meat from the hunter and test the DNA to determine the sex of the animal. While this is possible in the most serious cases; DNA testing is very expensive, takes many months to get the results and is simply not feasible in this situation. Further, the proposer suggests that this regulation has nothing to do with “legal harvest”. AWT strongly disagrees with this statement and feels that without the requirement to leave evidence of sex naturally attached; numerous illegal animals would be harvested ultimately affecting management goals.

Proposal 113

AWT was asked by Alaska Department of fish and Game to write the recommendation for this proposal due to the enforcement nexus.

EFFECT OF THE PROPOSAL: Remove the reference to Federal fish and Wildlife Agent under the transfer of possession regulation.

ALASKA WILDLIFE TROOPER RECCOMENDATION: **Do not adopt**

RATIONALE:

Wildlife enforcement is a difficult job anywhere, but the Alaska Wildlife Troopers face challenges not encountered by other law enforcement agencies in the U.S. One fifth the size of the contiguous U.S., Alaska consists of 586,412 square miles of diverse territory. The state is filled with rugged mountains, massive glaciers, tundra, forests, and more than 3,000 rivers, more than 3 million lakes and a coastline of 6,640 miles. The vast expanses of the state, combined with the terrain and weather, create a significant challenge for wildlife troopers. With 97 wildlife Troopers statewide, we are sometimes not able to cover all the areas of the state. Assistance from our federal partners in these situations is appreciated.

The Department of Public Safety issues commissions to some federal enforcement officers. These commissions allow some federal law enforcement personnel to enforce state law on state lands. Basically, they are commissioned state officers for the purposes of enforcing specific state titles and regulations. If the board elects to remove the reference to “Federal fish and Wildlife Agent” within this regulation, it would not change their enforcement authority. Since the

authority to enforce state law is given through the commission granted by the Commissioner of Department of Public Safety, the board of game cannot dictate when that authority is given or removed. Further, since this reference has been in regulation for a long time, the removal from regulation would only add to the confusion the public may have when figuring out who has the authority to enforce this regulation.

Proposal 125

AWT has **no recommendation** on this proposal. However, AWT has enforceability concerns when respect to the 72 hour trap check requirement. This will be very difficult for any law enforcement agency to enforce. Since traps can be checked at any time day or night, law enforcement would be required to set up a stake out or electronic monitoring to determine if the trapper returned at any time within the 72 hour period. This is time consuming and would require extensive resources to enforce.

Proposal 128

AWT has **no recommendation** on this proposal due to its allocative nature. AWT does however question the need for seasons and bag limits on furbearers if trappers are allowed to keep animals that they catch incidentally. If this proposal passes, trappers will be able to leave sets out that target specific animals and claim they were caught incidentally. Further, the trapper would be allowed to keep the animal if they brought it to ADF&G to be sealed. Trappers are very rarely cited by AWT for catching incidental furbearers. Usually, when they are cited it is due to catching and keeping the animal and not turning it in.